

1977 WL 36987 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 5, 1977

**\*1 RE: Election of Magistrates-Cherokee County, S.C.**

Honorable Robert C. Lake, Jr.  
Senator  
Senatorial District No. 5  
Box 245  
Whitmire, South Carolina 29178

Dear Bob,

You have asked for my opinion regarding the election of magistrates in Cherokee County. As I understand the facts, there is some question as to the residency requirement of that magistrate elected on a county-wide basis to serve Cherokee township. Essentially you ask whether that person must be a resident of that district.

Act No. 115 of 1971 (amending Section 43-663 of the 1962 Code of Laws of South Carolina, as amended) provides:

‘Section 43-663. All magistrates in Cherokee County shall have county-wide jurisdiction; provided, that one magistrate shall be a resident of Cherokee township. Each magistrate shall be nominated in the primary by the qualified electors of the county.’

Under present law the nominees are recommended to the Governor for appointment to particular seats designated by the senatorial delegation. The above-referenced act appears to contain the desired assurance as to residency in Cherokee township of at least one magistrate. Therefore, it appears that you and your colleague have the ability to effect the desired result within existing law.

However, if you feel that further assurance is needed for the future, the statute might be amended to clarify and ensure the desired result by adding the following phrase to the existing proviso section above:

‘. . .; provided, that one magistrate shall be a resident of Cherokee township who shall upon appointment be assigned to serve in that district.’ (Emphasis supplied.)

I trust this discussion adequately answers your question, however, if any further explanation or assistance is necessary, please do not hesitate to contact me.

With best personal regards, I am  
Very truly yours,

Daniel R. McLeod  
Attorney General

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